



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/520,079	08/28/95	YAMAZAKI	0756-1400

SIXBEY FRIEDMAN LEEDOM AND FERGUSON  
2010 CORPORATE RIDGE  
SUITE 600  
MCLEAN VA 22102

MM21/0505

EXAMINER  
JACKSON JR, J

ART UNIT	PAPER NUMBER
2815	

DATE MAILED: 05/05/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application N

520079

Applicant(s)

YAMAZAKI

Examiner

JJ

Group Art Unit

2503

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

☒ Responsive to communication(s) filed on 2/23/98

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-4, 6-9, 11-14, 16-19, 21-24, 39-72 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-4, 6-9, 11-14, 16-19, 21-24, 39-72 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit:

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4,6-9,11-14,16-19,21-24,39-72, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Zhang '733.

The previous rejection still applies. The new limitations "with no grain boundary therein" do not structurally distinguish the claims over '733 because applicant has not proven that there is a grain boundary in the channel of '733. In column 4 lines 5-34 of '733 it is shown that no grain boundaries should exist in the channel region.

4. Claims 1-4,6-9,11-14,16-19,21-24,39-72, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang '733 in view of Yamazaki '636.

Art Unit:

The process of formation of '733 appears to determine the required concentrations of oxygen, nitrogen, and carbon. In any event, Yamazaki '636 teaches and suggests the appropriate levels of oxygen, nitrogen, and carbon for a device as '733. Accordingly, applicant's claims are obvious.

5. Applicant's arguments filed February 23, 1998 have been fully considered but they are not persuasive.

Applicant's arguments concerning the process of manufacture of '733 do not prove that there are grain boundaries in the channel region of '733. The arguments are speculation, contrary to the teachings of '733, and unpersuasive. Applicant's arguments regarding the concentrations of oxygen, etc. are unconvincing of patentability because '636 suggests the required concentrations for '733, and furthermore, from the process of manufacture of '733 it appears that the elements are already present.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson whose telephone number is (703) 308-4937. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4937.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JEROME JACKSON  
PRIMARY EXAMINER  
GROUP 1500